



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

REC
Docket No: 11695-08
26 October 2009

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 October 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy and began a period of active duty on 18 April 1980, at age 20. On 13 July 1980, you were convicted by civilian court for drunk in public. On 26 August 1980, you received nonjudicial punishment (NJP) for wrongful possession of a controlled substance, marijuana. 26 August 1981, you received NJP for offering violence toward a superior commissioned officer and disobeying a lawful order. You were counseled and warned that further misconduct could result in administrative discharge action. On 15 August 1982, you were convicted by summary court-martial (SCM) for being in an unauthorized absence (UA) status for a period totaling 88 days. On 6 March 1984, you were convicted by SCM for an additional UA totaling 64 days and wrongful use of controlled substances, marijuana and amphetamines.

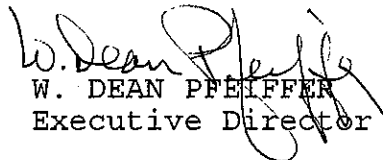
On 6 March 1984, administrative discharge action was initiated by reason of misconduct due to a pattern of misconduct. You waived your rights to consult counsel, submit a statement or have your case heard by an administrative discharge board (ADB). Your commanding officer forwarded his recommendation that you be

discharged under other than honorable conditions by reason of misconduct. The discharge authority directed an other than honorable discharge by reason of misconduct. On 30 March 1984, you were so discharged. At that time you were assigned an RE-4 reenlistment code.

The Board, in its review of your application, carefully weighed all potentially mitigating factors, such as your youth, and overall record of service. Nevertheless, the Board found that these factors were not sufficient to warrant changing the reason or characterization of your discharge, given your record of one civilian conviction, two NJP's and two SCM convictions, and the fact that you were counseled and warned of the consequences of further misconduct, and still committed additional infractions. The Board also noted that you waived the right to an ADB, your best opportunity for retention or a better characterization of service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


W. DEAN PFEIFFER
Executive Director